

# **CNG POWER SERVICES CORPORATION**

## **ORDER No. EA-110**

### **I. BACKGROUND**

Exports of electric energy from the United States to a foreign country are regulated and require authorization under Section 202(e) of the Federal Power Act (FPA) (16 U.S.C. §824a(e)).

On October 27, 1995, CNG Power Services Corporation (CNG) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Canada. CNG is a power marketer which has been authorized by the Federal Energy Regulatory Commission (FERC) to make sales of electric power at wholesale in interstate commerce, at negotiated rates. CNG buys and sells electric energy for its own account; it does not own or control any electric generating or transmission facilities, nor does it have a franchised service area.

CNG proposes to purchase surplus electric energy from electric utilities in the United States and to export this energy on its own behalf to Canadian entities. The energy to be exported would be delivered to Canada over the international electric transmission facilities owned and operated by the New York Power Authority (NYPA) and Niagara Mohawk Power Corporation (NMPC).

Notice of this application appeared in the Federal Register on November 9, 1995, (60 FR 56589) requesting that comments, protests, and petitions to intervene be submitted to the DOE by December 11, 1995. During the initial comment period, DOE received comments from the PJM Interconnection Association (PJM), and comments with petitions to intervene from Ontario Hydro (Ontario) and Niagara Mohawk Power Corporation (NMPC). On December 18, 1995, CNG requested that DOE extend the period in which to submit reply comments; in response, DOE extended CNG's reply comment period to January 15, 1996. Reply comments were filed by CNG on January 16, 1996. On February 2, 1996, Ontario submitted supplemental comments.

## **II. SUMMARY OF COMMENTS**

Many of the issues raised by commenters already have been addressed by DOE in similar export proceedings: Enron Power Marketing (Enron) Order EA-102; North American Energy Conservation, Inc. (NAEC), Order EA-103; and NorAm Energy Services, Inc. (NorAm), Order EA-105-MX. These Orders granted authority to export electric energy to Canada and Mexico and were issued after all of the subject comments had been filed in this docket.

### **A. PETITIONS TO INTERVENE AND PROTESTS**

#### **1. Ontario Hydro**

Ontario filed a petition to intervene, including comments, on December 11, 1995, and filed supplemental comments on February 2, 1996. Ontario is the provincial electric utility of the Province of Ontario, Canada, and is interconnected to U.S. utilities in Michigan and New York. Ontario incorporated by reference comments filed earlier in FE Docket EA-103, NAEC, and FE Docket EA-105, NorAm. Generally, Ontario suggests that DOE ought to base export limits on the power transfer limits (megawatts) of the international transmission lines rather than on annual energy flow (megawatt-hours), and further suggests that DOE use this opportunity to eliminate the annual energy limits for existing and future export authorizations.

#### **2. Niagara Mohawk Power Corporation**

On December 8, 1995, NMPC filed a petition to intervene, protest, and request for further proceedings, including comments. NMPC is concerned about the impact of CNG's proposal on electric reliability, particularly how exports by CNG may effect NMPC's transmission connection to asynchronous generation in Canada. NMPC questions whether CNG will comply with North American Electric Reliability Council (NERC) guidelines. Also, NMPC claims that CNG has not provided transaction-specific information with which NMPC and DOE could evaluate the reliability impacts of its proposal.

### **B. WRITTEN COMMENTS**

Comments were filed on December 11, 1995, by PJM. PJM comments that exports by CNG would not impact the PJM system. Rather, PJM is concerned about the reliability considerations of imports by CNG from Hydro-Quebec.

### C. RESPONSE OF CNG

On January 16, 1996, CNG filed response comments in this proceeding. CNG emphasizes that it will comply with NERC reliability criteria to the extent that NMPC and NYPA must comply with such rules.

### III. ANALYSIS

The subject application by CNG to export electricity to Canada is being considered under DOE's authority to authorize exports of electric energy to foreign countries under the FPA. DOE has no authority under the FPA to regulate imports of electricity. Accordingly, the reliability considerations of potential imports by CNG raised by PJM cannot be addressed in this proceeding.

NMPC raised the issue that the CNG application requires a waiver of DOE regulatory requirements and does not provide sufficient information for DOE to assess the reliability impacts of the export as required by the statutory requirements of the FPA.

DOE never has applied the information filing requirements contained in its regulations in a rigid manner. Each application for authorization to export has unique commercial and/or technical issues which make rigid filing requirements impractical. Consequently, DOE has always used a flexible approach in determining the information necessary to evaluate the reliability impacts for a specific proposal to export. In addition to empirical studies and computer simulations, DOE has relied upon established industry guidelines, operating procedures and/or infrastructure as evidence that sufficient safeguards exist to maintain electric system reliability.

Present industry operating practices dictate that in order for electricity to be exported or, for that matter, moved anywhere in the U.S., two actions must be taken. First, the transaction must be scheduled with the appropriate control areas. Second, the exporter must obtain sufficient transmission access to wheel the electricity from the generating source to the border. The first requirement is almost a fait accompli. Since CNG does not own or operate any generating or transmission facilities, it does not have the ability to move electric energy without the cooperation of the systems which do. With few exceptions, the generating sources from which CNG would be purchasing electric energy are members of control areas and would have to schedule transactions with their respective control areas on behalf of CNG. In deference to this point and the concern raised by NMPC, the ordering language requires CNG to abide by "...all reliability criteria,

standards, and guides of the North American Electric Reliability Council and Regional Councils..." (NERC). This includes NERC's "Agreements in Principle on Scheduled Interchange," which specify the requirements of control areas in scheduling interchange. The Agreements also establish the responsibilities of purchasing and selling entities, like CNG, that do not perform control area functions, but wish to schedule interchange.

The authority requested of DOE by CNG under section 202(e) of the FPA is a necessary condition for exporting. However, even with this grant of authority, CNG must still make the necessary commercial arrangements and obtain any and all other regulatory approvals which may be required in order to effect the export, including obtaining all necessary transmission access required to wheel the exported energy to the foreign purchaser. In order to obtain sufficient transmission access to wheel the electricity to the border, CNG must come to terms with the affected transmission systems and obtain any necessary regulatory approvals. In considering CNG's request, the transmission systems would have to assess the reliability impacts of moving the export through their systems and, presumably, would only agree to provide service under terms and conditions that would not cause reliability problems on their own systems.

In granting electricity export authorizations to power marketers, DOE has broadened the approach it always has taken. DOE always has predicated its reliability analyses for "traditional" entities (e.g., electric utility companies and power pools) on the assumption that the exported energy would be supplied from system power; i.e., provided from the exporting system's total supply resources, without associating the exported energy with any particular component of those resources. In fact, the total supply resources of traditional applicants usually includes power purchased from other systems or regions. DOE believes it is neither possible nor appropriate to look behind an export and consider the reliability impacts of delivering power purchased from other sources onto the exporter's system.

Electricity marketers put together a power portfolio by purchasing various power products from a host of power suppliers. Because a marketer does not own any physical system to which these products may be delivered, DOE does not have the same starting point for its reliability analysis that it would in the case of the more traditional exporter. However, all exports by marketers do have identifiable delivery points: the transmission systems contiguous with the border. Once the exported energy arrives at one of these border systems, the impact on reliability would be similar to that for exports which are supplied from the system power of that border system. DOE believes that the technical analyses used to support the issuance of electricity

export authorizations to border utilities are sound and that DOE need not perform additional reliability assessments as long as the maximum rate of transmission for all exports through a border system does not exceed the previously authorized export limit.

This approach is applicable for exports by marketers over all existing international transmission facilities for which export authorizations have been issued and for which reliability studies have been performed. However, several of the international transmission lines over which CNG seeks export authority are owned and operated by the New York Power Authority (NYPA). As an instrumentality of the State of New York, NYPA is non-jurisdictional to section 202(e) of the FPA. Consequently, DOE has never issued NYPA an export authorization which could be used to limit exports by CNG and for which a reliability assessment has been prepared. In lieu of the reliability analyses which would have been performed for an export authorization by NYPA, DOE is utilizing the information contained in the report entitled, “Load & Capacity Data, 1995 Report of the Member Electric Systems of the New York Power Pool.” This report is prepared and filed with the New York Public Service Commission pursuant to section 6-106 of the Energy Law of New York State. It will be made part of the record in this proceeding and included in the public docket. Section IX of this report lists the transmission transfer capabilities between the New York Power Pool (NYPP)<sup>1</sup> and surrounding electric systems, including Hydro-Quebec and Ontario Hydro. Since all of the major transmission interconnections between NYPP and Ontario Hydro are operated in parallel, it is appropriate to consider a single export limit for this “electrically logical” grouping of lines. Accordingly, the transfer capability between NYPP and Ontario Hydro (as identified in Section IX of the above report) has been used in the ordering language to limit exports by CNG over all international transmission lines connecting the U.S. with Ontario Hydro. A separate limit has been assigned for exports over NYPA’s 765-kV tie with Hydro-Quebec, because of the asynchronous nature of that interconnection.

In its application, CNG requested authority to export over the following electric transmission facilities, owned by NMPC, which DOE does not consider capable of being operated in the manner envisioned by CNG, specifically, point to point transmission of bulk power:

<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
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<sup>1</sup> New York Power Pool is an association of NYPA and the seven major investor-owned electric utilities in New York State. NYPP dispatches power throughout New York State on a single-system basis and coordinates the development and operation of its members’ production and transmission facilities.

Hogansburg, NY	4.8-kV	PP-13
Ft. Covington, NY	13.2-kV	PP-28
Buffalo, NY	2-38-kV	PP-31
	4-12-kV	PP-31

Consequently, CNG has not been granted export authority over these facilities.

The electric power industry is vastly different today than it was in 1935, or when authority for the program was transferred to DOE from the Federal Power Commission in 1977, especially with the recent introduction of power marketers into the electric power industry. The passage of the Energy Policy Act of 1992, the signing of the North American Free Trade Agreement in 1993, and the issuance of FERC Order 888 in April 1996 have all promoted increased competition in energy markets in general, and the electric power market in particular. The interpretation and implementation of the statutory and regulatory requirements governing exports of electricity should be consistent with and account for these changes in the evolving electricity marketplace.

A comment raised by Ontario is whether DOE can or should require border system utilities to abide by the energy limits contained in existing export authorizations, while authorizing marketers to export unlimited amounts of energy, but at limited rates of transmission. DOE recognizes this obvious inequity and will address this issue in a future proceeding. Until that procedure is completed, exports by CNG will be constrained by the same energy limits contained in existing export authorizations. Furthermore, the ordering language makes it clear that exports by CNG will not be “charged against” (i.e., reduce) the energy limits which the holders of several export authorizations must now abide by.

#### **IV. FINDING AND DECISION**

NMPC, Ontario, and PJM have an interest which may be affected by the outcome of this proceeding. Accordingly, petitions to intervene in this proceeding are granted and comments and protests are noted.

Because CNG has no native load obligations usually associated with a franchised service area, and because the electric power purchased by CNG for export to Canada would be surplus to the needs of those entities selling the power to CNG, DOE finds that such exports by CNG would not impair the sufficiency of electric supply within the United States. Furthermore, based on the

above discussion and analysis, DOE finds that the proposed export, as conditioned and limited herein, would not impede or tend to impede the coordinated use of transmission facilities within the meaning of section 202(e) of the FPA.

The DOE also has assessed the potential environmental impacts associated with the authorizing of the proposed export and has determined that this action is among those classes of actions not normally requiring preparation of an environmental assessment or an environmental impact statement and, therefore, is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing the National Environmental Policy Act of 1969. Documentation of the use of this categorical exclusion has been placed in this docket.

## **V. ORDER**

Based on the above finding, it is hereby ordered that CNG Power Services Corporation (CNG) is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by CNG pursuant to this Order may be delivered to Canada only over the following existing international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

<u>Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
New York Power Authority	Massena, NY	765-kV	PP-56 <sup>2</sup>
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30 <sup>3</sup>
Niagara Mohawk	Devils Hole, NY	230-kV	PP-31 <sup>4</sup>

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<sup>2</sup>The Presidential permit identified by DOE as PP-56 was issued by the FPC in Docket E-8414.

<sup>3</sup>The Presidential permit identified by DOE as PP-30 was issued by the FPC in Docket E-6798.

<sup>4</sup>The Presidential permit identified by DOE as PP-31 was issued by the FPC in Docket E-6797.

Power Corp.

(B) Exports authorized herein shall not cause a violation of the terms and conditions contained in existing electricity export authorizations associated with the international transmission facilities identified in paragraph (A) above. Specifically:

(1) Exports by CNG made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permits PP-25, PP-30, PP-31 and PP-74 to exceed a combined instantaneous transmission rate of 550 MW.

(2) Exports by CNG made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-56 to exceed an instantaneous transmission rate of 1000 MW.

(C) Any request for changes to the exports limits in subparagraphs B(1) and B(2) above will be considered by DOE after submission by CNG of appropriate information demonstrating a change in the transmission transfer capability between New York Power Pool and Ontario Hydro and Hydro-Quebec.

(D) CNG may commence exports only over those international transmission lines identified in paragraph B for which CNG provides DOE written evidence that sufficient transmission service has been obtained for delivery of the exported energy to the border.

(E) In scheduling the delivery of electricity exports to Canada, CNG shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council and Regional Councils, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(F) CNG shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued by the DOE.

(G) The authorization herein granted may be modified from time to time or terminated by further order of the DOE, but in no event shall such authorization extend beyond the date of termination or expiration of the Presidential permits referred to in Paragraph (A) above.

(H) This authorization shall be effective for a period of two years from the date of this Order. Within six months prior to the expiration of this authorization, CNG may reapply for renewal of the authorization for a period of time longer than the original two-year period.

(I) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of any lawful authority vested in such State or State regulatory commission.



(J) CNG shall make and preserve full and complete records with respect to the electric energy exported to Canada. CNG shall furnish quarterly reports to the DOE, within 30 days following each calendar quarter, showing the gross amount of electricity delivered and the consideration received during each month of the previous quarter, and the maximum hourly rate of transmission.

(K) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

Issued in Washington, D.C., on June 20, 1996.

Anthony J. Como  
Director  
Office of Coal & Electricity  
Office of Fuels Programs  
Office of Fossil Energy